

REMARKS**Rejection of Claims Under 35 U.S.C. § 112, First Paragraph**

Claim 17 is rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. Claim 17 has been canceled thereby obviating the rejection.

Rejection of Claims Under 35 U.S.C. § 112, Second Paragraph

Claims 17 and 18 are rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out an distinctly claim the subject matter which Applicants regard as the invention.

Claim 17 has been canceled thereby obviating the rejection. Claim 18, as originally filed, was ultimately dependent upon Claim 1 which recites “red blood cell fraction”; Claim 18 has now been amended to directly depend from Claim 1. Withdrawal and reconsideration of the rejection are respectfully requested.

Rejection of Claims Under 35 U.S.C. § 102(b)

Claims 1-6, 10-12, 14, 16, 19-21, 23, 24, and 26 are rejected under 35 U.S.C. § 102(b) as being anticipated by WO 94/22482 to Biorelease Technologies, Inc. (hereinafter “reference ‘482”).

Claims 1 and 21 have been amended to recite “separating defibrinated whole blood” in step (a). Independent Claims 1 and 21 are drawn to a method of purifying red blood cells or forming a lysate of purified red blood cells. In step (a), defibrinated whole blood is separated forming a red blood fraction and a liquid fraction. Claims 10-13 and 23 have been canceled.

Reference ‘482 describes methods for separating blood that has been treated with anticoagulants (see the paragraph bridging pages 20 and 21).

Reference ‘482 does not teach or suggest any methods for using defibrinated whole blood for any purpose. Therefore, Claims 1 and 21 are novel over reference ‘482. Claims 2-6, 14, 16, 19, 20, 24, and 26 are dependent upon Claims 1 or 21 and include all of the limitations of Claims 1 or 21. Therefore, Claims 2-6, 14, 16, 19, 20, 24, and 26 are also novel over reference ‘482. Withdrawal and reconsideration of the rejection are respectfully requested.

Rejection of Claims Under 35 U.S.C. § 103(a)

Claims 7, 13, 15, 18, and 25 are rejected under 35 U.S.C. § 103(a) as being unpatentable over reference '482 combined with WO 96/29346 to Biopure Corporation (hereinafter "reference '346"). As described above, Claims 1 and 21 have been amended to recite "separating defibrinated whole blood" in step (a).

The teachings of reference '482 are described above. Reference '482 does not disclose or suggest the use of defibrinated whole blood for any purpose. Reference '346 does not remedy the deficiencies of reference '482 because like reference '482, reference '346 does not disclose or suggest the use of defibrinated whole blood for any purpose. Therefore, there is no motivation to combine and modify the teachings of reference '482 and reference '346 to arrive at Applicants' claimed invention.

Claims 7, 15, 18, and 19 are patentable over '482 combined with '346. Withdrawal and reconsideration of the rejection are respectfully requested.

Double Patenting

Claims 1, 8, and 9 are rejected under the judicially created doctrine of obvious-type double patenting as being unpatentable over Claims 1 and 4 of U.S. Patent 6,518,010. Claims 21 and 27 are provisionally rejected under the judicially created doctrine of obvious-type double patenting as being unpatentable over Claim 1 of co-pending Application No. 10/306,819.

Claim 8 has been canceled and the subject matter incorporated into Claim 1. Applicants hereby submit a Terminal Disclaimer over U.S. Patent No. 6,518,010 and a Terminal Disclaimer over co-pending Application No. 10/306,819. Withdrawal and reconsideration of the rejections are respectfully requested.

CONCLUSION

In view of the above amendments, remarks, and Terminal Disclaimers it is believed that all claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

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